

House Bill 609

By: Representatives Crawford of the 127th, Richardson of the 19th, and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for courts, so as to change provisions relating to requesting judicial assistance from other courts; to provide for consideration in selecting judges for assistance; to change certain provisions relating to senior judge status and requesting assistance from a senior judge; to change provisions relating to senior judges' compensation; to change provisions relating to senior judges in state court, probate court, or juvenile court; to create terms for senior judges to serve; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for courts, is amended by striking subsection (b) of Code Section 15-1-9.1, relating to requesting judicial assistance from other courts, and inserting in lieu thereof the following:

"(b) In seeking to obtain judicial assistance, consideration should first be given to judges available within the county or circuit, then to judges available in the adjoining counties or circuits.

(1) If assistance is needed from a judge outside of the county, a superior court judge of this state or the chief judge of a class of courts other than an appellate court may make a request for judicial assistance in the court served by said requesting judge to the administrative judge of the judicial administrative district in which said requesting judge's court is located, if any of the following circumstances arises:

(A) A judge of the requesting court is disqualified for any cause from presiding in any matter pending before the court;

(B) A judge of the requesting court is unable to preside because of disability, illness, or absence; or

1 (C) A majority of the judges of the requesting court determines that the business of the
2 court requires the temporary assistance of an additional judge or additional judges.

3 (2) If assistance is needed from a judge from the same county, the chief judge of any
4 court within such county of this state may make a written request for assistance to the
5 chief judge of any other court within such county, a senior judge of the superior court, a
6 retired judge, or a judge emeritus of any court within the county. The request by the chief
7 judge may be made if one of the following circumstances arises:

8 (A) A judge of the requesting court is disqualified for any cause from presiding in any
9 matter pending before the court;

10 (B) A judge of the requesting court is unable to preside because of disability, illness,
11 or absence;

12 (C) A majority of the judges of the requesting court determines that the business of the
13 court requires the temporary assistance of an additional judge or additional judges; or

14 (D) A majority of the judges of the requesting court determines that the business of the
15 court requires the permanent assistance of an additional judge or additional judges. If
16 the requesting court is a state or superior court, the assisting judge or assisting judges
17 may hear and decide matters otherwise in the exclusive jurisdiction of the state or
18 superior court without regard to time, type of case, or limitations contained in the rules
19 of such state or superior court; provided, however, that a chief magistrate or magistrate
20 may serve as a permanent assisting judge only in counties having a population of
21 180,000 or more according to the United States decennial census of 1990 or any future
22 such census.

23 (3) When a petition for habeas corpus is filed challenging for the first time state court
24 proceedings resulting in a death sentence, the clerk of the superior court acting on behalf
25 of the chief judge shall make a request for judicial assistance to the president of The
26 Council of Superior Court Judges of Georgia. Within 30 days of receipt of a request for
27 judicial assistance, the president of The Council of Superior Court Judges of Georgia
28 shall, under guidelines promulgated by the executive committee of said council, assign
29 the case to a judge of a circuit other than the circuit in which the conviction and sentence
30 were imposed.

31 (4) In petitions under this article challenging for a second or subsequent time a state
32 court proceeding resulting in a death sentence, the chief judge of the court where the
33 petition is filed may make a request for judicial assistance to the president of The Council
34 of Superior Court Judges of Georgia upon certifying that the business of the court will
35 be impaired unless assistance is obtained. Within 30 days of receipt of a request for
36 judicial assistance, the president of The Council of Superior Court Judges of Georgia
37 shall, under guidelines promulgated by the executive committee of said council, assign

1 the case to a judge of a circuit other than the circuit in which the conviction and sentence
2 were imposed."

3 SECTION 2.

4 Said chapter is further amended by striking Code Section 15-1-9.2, relating to senior judge
5 status, and inserting in lieu thereof the following:

6 "15-1-9.2.

7 (a) The office of senior judge of the superior courts is created, and judges of the superior
8 courts or former judges of the superior courts may become senior judges as follows:

9 (1) Any judge of the superior courts who retires pursuant to the provisions of Chapter 8
10 or Chapter 23 of Title 47 and any such judge who receives a disability retirement benefit
11 under such chapter may become a senior judge beginning on the effective date of the
12 judge's retirement; and

13 (2) Any judge of the superior courts, whether or not said judge is a member of the
14 retirement system created by Chapter 23 of Title 47, who ceases holding office as a judge
15 of the superior courts and who has at least ten years of service as a judge of the superior
16 courts at the time of ceasing to hold office and who is not eligible for appointment to the
17 office of senior judge under any other law of this state may become a senior judge.

18 (a.1) Notwithstanding the provisions of subsection (a) of this Code section, any Justice of
19 the Supreme Court of Georgia, Judge of the Court of Appeals, superior court judge, state
20 court judge, magistrate court judge, or juvenile court judge who ceases holding office as
21 a judge and who has a total of ten years of service in any combination of such offices or
22 a total of nine years of service in any combination of such offices plus at least one year of
23 service as chairperson of the State Board of Workers' Compensation may become a senior
24 judge. Said combination must include at least five years' service as a Justice of the
25 Supreme Court, Judge of the Court of Appeals, or judge of the superior court or at least five
26 years as total served in combination as Justice of the Supreme Court, Judge of the Court
27 of Appeals, or judge of the superior court.

28 (a.2) Senior judge status as provided in this Code section shall be acquired by a qualified
29 former judge's applying to the Governor for appointment as senior judge. Upon making a
30 determination of need for additional judicial assistance in the county or circuit previously
31 served by the retiring judge, the ~~The~~ Governor shall appoint each qualified applicant as a
32 senior judge. Such appointment shall be for a term of two years; provided, however, that
33 the Governor may appoint a senior judge to serve more than one term.

34 (b) The chief judge of any appellate or superior court of this state may make a written
35 request for assistance to a senior judge. The request by the chief judge may be made if one
36 of the following circumstances arise:

1 (1) A judge of the requesting court is disqualified for any cause from presiding in any
2 matter pending before the court;

3 (2) A judge of the requesting court is unable to preside because of disability, illness, or
4 absence; or

5 (3) A majority of the judges of the requesting court determines that the business of the
6 court requires the temporary assistance of an additional judge or additional judges as
7 provided for in Code Section 15-1-9.1.

8 (c) An active judge may call upon a senior judge to serve in an emergency or when the
9 volume of cases or other unusual circumstances cause such service to be necessary in order
10 to provide for the speedy and efficient disposition of the business of the circuit.

11 (d)(1) Senior judges serving as judges of an appellate or superior court under this Code
12 section or any other provision of law shall receive compensation from state funds ~~for each~~
13 ~~day of service, in the amount~~ on an hourly basis, based upon 80 percent of the annual
14 state salary of a judge of the applicable court, ~~divided by 235. Such compensation shall~~
15 be calculated based on 235 work days per year. In addition to such compensation, such
16 senior judges shall receive their actual expenses or, ~~at the judge's option, in the event of~~
17 ~~service outside the county of the judge's residence, the same per diem expense authorized~~
18 ~~by law for members of the General Assembly~~ and shall receive mileage at the same rate
19 as other state employees for such services. Such compensation, expenses, and mileage
20 shall be paid from state funds appropriated or otherwise available for the operation of the
21 appellate or superior courts, upon a certificate by the senior judge as to the number of
22 ~~days~~ hours served or the expenses and mileage. Such compensation shall not affect,
23 diminish, or otherwise impair the payment or receipt of any retirement or pension
24 benefits, when applicable, of such judge.

25 (2) Senior judges serving as judges of any court other than an appellate or superior court
26 under this Code section or any other provision of law shall receive compensation ~~for each~~
27 ~~day of service, in the amount~~ on an hourly basis, based upon 80 percent of the annual
28 salary of a judge of the applicable court, ~~divided by 235. Such compensation shall be~~
29 calculated based on 235 work days per year. In addition to such compensation, such
30 senior judges shall receive their actual expenses or, ~~at the judge's option, in the event of~~
31 ~~service outside the county of the judge's residence, the same per diem expense authorized~~
32 ~~by law for members of the General Assembly~~ and shall receive mileage at the same rate
33 as state employees for such services. Such compensation, expenses, and mileage shall be
34 paid from funds appropriated or otherwise available for the operation of the applicable
35 court, upon a certificate by the senior judge as to the number of ~~days~~ hours served or the
36 expenses and mileage. Such compensation shall not affect, diminish, or otherwise impair

1 the payment or receipt of any retirement or pension benefits, when applicable, of such
2 judge."

3 **SECTION 3.**

4 Said chapter is further amended by striking subsection (c) of Code Section 15-1-9.3, relating
5 to senior judges in state court, probate court, or juvenile court, and inserting in lieu thereof
6 the following:

7 "(c) Senior judge status shall be acquired by a qualified former judge's applying to the
8 Governor for appointment as senior judge. Upon making a determination of need for
9 additional judicial assistance in the county previously served by the retiring judge, the ~~The~~
10 Governor shall appoint each qualified applicant as a senior judge. Such appointment shall
11 be for a term of two years; provided, however, that the Governor may appoint a senior
12 judge to serve more than one term."

13 **SECTION 4.**

14 All laws and parts of laws in conflict with this Act are repealed.